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9 Attorneys for Defendants A.G. Spanos
 10 Construction, Inc.; A.G. Spanos
 Development, Inc.; A.G. Spanos
 Land Company, Inc.; A.G. Spanos
 Management, Inc., The Spanos Corporation

12 IN THE UNITED STATES DISTRICT COURT
 13 FOR THE NORTHERN DISTRICT OF CALIFORNIA

14 National Fair Housing Alliance, Inc., et al.,) CASE NO. C07-03255-SBA
 15 Plaintiffs,)
 16 vs.)
 17 A.G. Spanos Construction, Inc., et al.)
 18 Defendants.)
 19

) NOTICE OF MOTION AND MOTION
) OF DEFENDANTS A.G. SPANOS
) CONSTRUCTION, INC.; A.G. SPANOS
) DEVELOPMENT, INC.; A.G. SPANOS
) LAND COMPANY, INC.; A.G. SPANOS
) MANAGEMENT, INC., AND THE
) SPANOS CORPORATION FOR MORE
) DEFINITE STATEMENT RE FIRST
) AMENDED COMPLAINT

20 [Fed. R. Civ. P. 12(e)]

21 Hearing Date: February 26, 2008
 22 Time: 1:00 p.m.
 Dept.: Courtroom 3

23 Complaint Filed: June 20, 2007

24 **TO PLAINTIFFS AND THEIR ATTORNEY OF RECORD:**

25 **PLEASE TAKE NOTICE** that on February 26, 2008, at 1:00 p.m., or as soon
 26 thereafter as this matter may be heard, in Courtroom 3 of the above-entitled court, located at
 27 1301 Clay Street, 3rd Floor, Oakland, California, Defendants A.G. Spanos Construction, Inc.,
 28 A.G. Spanos Development, Inc., A.G. Spanos Land Company, Inc., A.G. Spanos

1 Management, Inc., and the Spanos Corporation ("Defendants") will and hereby do move this
 2 court, pursuant to Rule 12(e) of the Federal Rules of Civil Procedure, for an order requiring
 3 Plaintiffs National Fair Housing Alliance, Inc., Fair Housing of Marin, Inc., Fair Housing
 4 Napa Valley, Inc., Metro Fair Housing Services, Inc., Fair Housing Continuum, Inc.
 5 ("Plaintiffs") to amend their first amended complaint to clarify the "vague" and "ambiguous"
 6 allegations contained therein.

7 The basis of this Motion, as set forth more fully in the accompanying Memorandum of
 8 Points and Authorities, is that:

- 9 I. THE COMPLAINT IS UNCERTAIN RE THE NUMBER OF COMPLEXES SUED
 10 ON.
- 11 II. THE ALLEGATIONS OF PLAINTIFFS' COMPLAINT ARE "VAGUE AND
 12 AMBIGUOUS" REGARDING PLAINTIFFS' STANDING TO SUE FOR DAMAGES
 13 OR INJUNCTIVE RELIEF UNDER THE FHAA BECAUSE PLAINTIFFS DO NOT
 14 ALLEGE FACTS SUFFICIENT TO ESTABLISH THE "IRREDUCIBLE
 15 CONSTITUTIONAL MINIMUM" FOR STANDING UNDER ARTICLE III OF THE
 16 U.S. CONSTITUTION
 - 17 A. Plaintiffs Do Not Claim To Be Members of a Protected Class under the FHAA,
 18 Nor Do They Purport to Sue on Behalf of Any Member of a Protected Class;
 19 Therefore, They Have No Standing to Sue
 - 20 B. Plaintiffs Do Not Allege Facts Sufficient To Establish the "Irreducible
 21 Constitutional Minimum" for Standing
 - 22 C. Plaintiffs Have Not Alleged Facts Sufficient to Establish Standing to Seek
 23 Damages
 - 24 D. Plaintiffs Have Failed to Allege Facts Sufficient to Establish Standing to Seek
 25 Injunctive Relief Under The FHAA re The Subject Properties

26 This Motion will be based upon this Notice of Motion and Motion, the Memorandum of
 27 Points and Authorities in support of this Motion, the Request for Judicial Notice in support of
 28 this Motion, and the pleadings, orders, records and documents on file in this case, as well as
 such oral and documentary evidence as may be properly presented at the time of the hearing on
 this Motion.

Opposition, if any, to the granting of the motion must be served and filed not less than
 twenty-one (21) days before the hearing date. If the party against whom the motion is directed
 does not oppose the motion, that party must file with the Court a Statement of Nonopposition

1 within the time for filing and serving any opposition. *See* Local Rule 7-3(a) and 7-3(b).

2 Dated: December 21, 2007

3 FREEMAN, D'AIUTO, PIERCE, GUREV,
4 KEELING & WOLF

5 By

6 LEE ROY PIERCE, JR.

7 Attorneys for Defendants A.G. Spanos
Construction, Inc.; A.G. Spanos Development,
Inc.; A.G. Spanos Land Company, Inc.; A.G.
Spanos Management, Inc., the Spanos Corporation

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